

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 46

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO DRUGS AND COSMETICS; PROVIDING FOR PRESCRIPTION  
MEDICATION DONATION; ENACTING A NEW SECTION OF THE NEW MEXICO  
DRUG, DEVICE AND COSMETIC ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the New Mexico Drug, Device  
and Cosmetic Act is enacted to read:

"NEW MATERIAL] PRESCRIPTION MEDICATION DONATION.--

A. As used in this section:

(1) "pharmacy" means a retail pharmacy,  
hospital pharmacy, community health clinic or public health  
office; and

(2) "tamper-evident" means a device or process  
that makes unauthorized access to protected pharmaceutical  
packaging easily detected.

.163768.1

underscored material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1           B. A person may donate prescription medication to a  
2 pharmacy's prescription medication donation program, and a  
3 pharmacy may accept and dispense the donated prescription  
4 medication in accordance with rules promulgated by the board.

5           C. The board shall promulgate rules to include:

6                   (1) eligibility criteria for pharmacies to  
7 receive and dispense donated prescription medication;

8                   (2) standards and procedures for accepting,  
9 storing and dispensing donated prescription medication;

10                   (3) standards and procedures for inspecting  
11 donated prescription medication to determine that the packaging  
12 is tamper-evident and that the donated prescription medication  
13 is unadulterated, safe and suitable for dispensing;

14                   (4) eligibility standards, based on economic  
15 need, for a person receiving donated prescription medication;

16                   (5) any other standards deemed necessary by  
17 the board;

18                   (6) the means, such as an identification card,  
19 by which a person may show eligibility to receive donated  
20 prescription medication;

21                   (7) a form to be signed by the eligible person  
22 before receipt of the donated prescription medication to  
23 confirm that the recipient understands the immunity provisions  
24 of the program;

25                   (8) a handling fee not to exceed twenty

.163768.1

underscoring material = new  
[bracketed material] = delete

1 dollars (\$20.00), that may be charged to the eligible person by  
2 the participating pharmacy to cover the costs of inspection,  
3 stocking and dispensing the prescription medication;

4 (9) a list of prescription medications that a  
5 participating pharmacy shall not accept; and

6 (10) a form to be signed by the person  
7 donating prescription medication verifying that:

8 (a) the person is the owner of the  
9 prescription medication;

10 (b) the prescription medication has been  
11 properly stored and the container has not been opened or  
12 tampered with;

13 (c) the prescription medication is not  
14 adulterated or misbranded; and

15 (d) the person is voluntarily donating  
16 the prescription medication.

17 D. The board shall maintain and publish a current  
18 listing of participating pharmacies.

19 E. Only prescription medication in its original  
20 tamper-evident or licensed facility-prepared tamper-evident  
21 packaging shall be accepted or dispensed under the prescription  
22 medication donation program. Prescription medication packaged  
23 in single unit doses with the outside packaging opened may be  
24 accepted and dispensed as long as the single unit dose  
25 packaging is undisturbed.

.163768.1

1 F. Prescription medication dated to expire within  
2 six months after donation or deemed adulterated or misbranded  
3 shall not be accepted.

4 G. A participating pharmacy shall only dispense  
5 donated prescription medication pursuant to a prescription  
6 order to a person who is a resident of this state and meets the  
7 eligibility standards promulgated by the board.

8 H. Before dispensing donated prescription  
9 medication, the participating pharmacy shall:

10 (1) comply with all applicable federal laws  
11 and the laws of the state that deal with the storage,  
12 distribution and labeling of dangerous drugs; and

13 (2) examine the donated prescription  
14 medication to determine that it has not been adulterated or  
15 misbranded and certify that the prescription medication has  
16 been stored in compliance with the requirements of the product  
17 label.

18 I. Notwithstanding any other provision of law, a  
19 person who donates prescription medication in good faith to a  
20 participating pharmacy shall not be subject to any criminal  
21 penalty or be liable for any civil damages arising from the  
22 condition of the prescription medication unless an injury  
23 arising from the prescription medication is caused by the gross  
24 negligence, recklessness or intentional conduct of the person  
25 who donates the prescription medication.

.163768.1

